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Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket 94-129
Ex Parte Meeting

Dear Ms. Salas:

On November 12, 1998, the undersigned met with Yog Varma, Dorothy Attwood, Glen Reynolds and Richard Cameron of the Commission's Common Carrier Bureau to discuss the proposed slamming rules under consideration in CC Docket 94-129. This firm represents independent telephone companies ("independents") which have a practice of verifying requests from interexchange carriers to make changes to the assignment of a subscriber's presubscribed interexchange carrier (PIC). The following summarizes the position statements made on behalf of the independents and the response to the questions from the staff:

These independents maintain that their verification practice protects consumers from the pervasive slamming which exists in the marketplace, prevents substantial harm to the business reputation of the independents, and is implemented in a manner which is competitively neutral and does not cause undue delay. Many of the independents find that 40-50% of the subscribers contacted say they do not want their PIC changed. The independents therefore request that the Commission adopt rules which specifically permit them to continue this practice. Copies of the document distributed with the rule proposals, and a redacted subscriber letter are attached.

The independents recognize that the Commission may adopt appropriate conditions for verification to ensure that it is competitively neutral and does not cause undue delay. For example, a rule might specify a reasonable period of time after which the change must be executed if the consumer has not responded. It would also be appropriate, and consistent with existing practice, to require that any verification communication, whether oral or written, involve no marketing or any other measures which would influence the consumer's decision. While some of the independents also provide long distance service, many do not. In either case, they scrupulously avoid any discussion with the customer beyond the yes or no question of whether or not the customer authorizes the change.

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42

To the extent that there exists a tension between the goals of consumer protection and IXC competition, the independents believe the Commission should follow the suggestion of Senator McCain in his October 30, 1998 letter to Chairman Kennard in which he said: "These rules should make sure that consumers' rights are given precedence over the narrow competitive interests of those companies whose unethical or careless business practices result in slamming."

In response to the question of whether a "PIC-freeze" would accomplish the same purpose, some independent companies expect this alternative would be satisfactory; however, others believe that despite all reasonable communication efforts, many consumers will not pay attention to the issue until they have been slammed. At that point they are very unhappy with their local telephone company through no fault of the independent.

In response to the question of whether consumers would be satisfied if, having been slammed, they were not obligated to pay the charges of the slamming carrier, it was explained that rural residential consumers are highly offended that an interexchange carrier would have the right to have their telephone account changed without their consent and consider slamming as equivalent to an invasion of personal privacy. A business user with very high toll bills might be more satisfied with a rule absolving it of payment.

The business practices of the independents are consistent with the statement in the Report and Order issued in this Docket on June 14, 1995 that: "We encourage entities such as LECs to take additional steps that might help reduce slamming in their service areas."

If there are any questions regarding this matter, please contact me at the number listed above.

Sincerely,



David Cosson

cc: Yog Varma
Dorothy Attwood
Glen Reynolds
Richard Cameron

PIC Change Verification by Rural LECs

1. Several LECs have instituted a PIC change verification process. This process is performed in a prompt and competitively neutral manner and has minimized the volume of subscriber complaints regarding unauthorized PIC changes ("slamming").
2. These slamming complaints adversely impact the excellent relations that LECs have with their subscribers and require a substantial amount of time and resources to resolve.
3. Verification protects consumers from unauthorized PIC changes which occur in spite of a submitting carrier's purported compliance with the existing FCC Rules.
4. Verification is more effective and efficient than having to change back subscriber's PICs, refund the PIC change charge, and bill and collect the unauthorized PIC charge from the IXC.
5. The proposed FCC Rules should be revised to include the following language:

§ 64.1160 Changes in Subscriber Carrier Selection

(a) Prohibition. No telecommunications carrier shall.... Nothing in this section shall preclude any State commission from enforcing these procedures with respect to intrastate services or preclude an executing carrier from verifying the subscriber's authorization for the change request in a prompt and competitively neutral manner.

....

(2) Where the submitting carrier has complied with § 64.1160(a) but the executing carrier executes the change inconsistent with the subscriber carrier change selection, the executing carrier will be solely liable for violating § 64.1160(a); provided that an executing carrier is not liable and need not execute the change where it determines, in accordance with § 64.1160(a) that the change was not authorized by the subscriber.

CARRIER VERIFICATION FORM

_____ Telephone has been informed by _____ that you would like to change your long distance carrier. Before doing the work, we would like to inform you of the charges associated with this change. A Pre-Subscribed Interexchange Carrier (PIC) charge of \$5.00 along with a \$6.90 service order charge will be included on your next phone bill. Secondly, this carrier may be performing it's own billing & collecting, resulting in a separate bill being sent to you.

Please sign the verification form below and return it to us within a week so we can make the change if you so desire. If you would rather call or have questions, please dial **_____** for assistance. Thank you!

Sincerely,

TELEPHONE NUMBER _____

_____**YES**, please switch my long distance service to _____

_____**NO**, I would like my long distance service to remain unchanged.

No payment is necessary at this time. Charges will appear on your next phone bill if you are switching. Please return this form as soon as possible in the enclosed self-addressed envelope.

Signature _____